

D. A. McCosker, President

Cedric Porter, Vice President

Steve Harris, Secretary

Michael Hester, Treasurer

Sent Certified Mail

January 20, 2009

California Uniform Construction Cost Accounting Commission  
Office of the State Controller  
Division of Accounting and Reporting  
Local Government Policies Section  
P.O. Box 942850  
Sacramento, CA 94250

RE: City of Lindsay – Library Project

Dear Chair Cortright,

This letter shall serve as a formal complaint against the City of Lindsay. We believe that they have violated California Public Contract Code, Section 22042 (b), and exceeded the force account limit. It appears the City has self-performed a number of items on a new Library Construction Project. We request that the Commission review the work as required. The work in question is described as:

**Lindsay Library Project**

Description of the work: Construction of a 6,733 square-foot building, site work and necessary infrastructure

The work was performed in approximately June–December 2008

Agency estimate if available: None available, value exceeds \$1,000,000

Name of Agency: City of Lindsay

Address of Agency: P.O. Box 369, Lindsay, CA 93247

Phone Number of Agency: (559) 562-5927

Contact if Applicable: Ken Walker, Deputy Director of Finance

Julia M. Lew, City Attorney

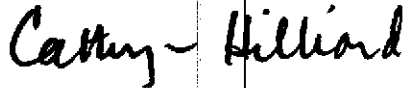
Ed Murray, Mayor

Attached, please find correspondence that we have had with the City. The City has failed to provide us with any cost accounting data. After numerous attempts to get information about this matter, we have been unable to resolve the issue with the City. We have mailed a copy of our complaint to the City of Lindsay. We have attached a copy of that letter for your records.

The Construction Industry Force Account Council (CIFAC) is a non-profit organization that represents contractors, contractor associations and the various building trades. As such, we meet the definition of an “interested party” per Public Contract Code Section 22042 (b).

Please feel free to contact me at (800) 755-3354 if you should have any questions. Michelle Tucker, Central Region Field Representative, is also available to answer any questions at (209) 770-1283. We request that you notify us in writing of the findings of the Commission.

Sincerely,



Cathryn Hilliard  
Executive Director

Enclosures: Copies of Letters to the City of Lindsay  
Copy of a Letter from Lindsay City Attorney  
Newspaper article from the Fresno Bee



D. A. McCosker, President

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January 20, 2009

Ken Walker, Deputy Director of Finance  
City of Lindsay  
P.O. Box 369  
Lindsay, CA 93247

Re: City of Lindsay – Library Project

Dear Mr. Walker,

The Construction Industry Force Account Council (CIFAC) is a non-profit organization that monitors public entities for compliance with the California Public Contract Code. We represent contractors, contractor associations and various building trades.

This letter is to serve as our notice to the City of Lindsay that we have filed a formal complaint against the City with the California Uniform Construction Cost Accounting Commission. The complaint is in reference to: **City of Lindsay - Library Project**. We believe that you are in violation of California Public Contract Code: Section 22042 (b). The value of the project exceeds your force account limit. We have attempted to obtain information from the City. The City has failed to provide us with any documentation or legal authority to show exemption. Thus, we were forced to seek the Commission's rulings on this matter.

Please contact me at (800) 755-3354 if you have any questions regarding this matter.

Sincerely,

Cathryn Hilliard  
Executive Director

cc: CUCCAC

WALTER McCORMICK (1926 - 2005)  
S.L. KABOT  
NANCY A. JENNER  
JULIA M. LEW  
  
RICHARD H. BAMBL

LAW OFFICES OF  
**MCCORMICK KABOT JENNER & LEW**  
A PROFESSIONAL CORPORATION  
1220 WEST MAIN STREET  
VISALIA, CALIFORNIA 93281

TELEPHONE  
(559) 734-8729

FACSIMILE  
(559) 734-8762

INTERNET  
WWW.MKJLAW.COM

December 23, 2008

Michelle Tucker  
CIFAC Central Region Representative  
19815 Rough and Ready Trail  
Sonora, California 95370

**Re: Public Records Request to City of Lindsay**

Dear Ms. Tucker:

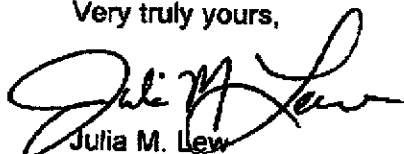
I am the City Attorney for the City of Lindsay, and the City has referred this matter to my office.

The City of Lindsay is a Charter City and bid all work on the Lindsay Library Project (that it did not perform itself) as required and in accordance with its Charter provisions.

With regard to your request for specific records (numbered 1 through 3 in your letter), to the extent the records exist they will be provided. Also, to the extent the City has a record(s) showing the total value of the project and the funding sources, they will be provided. The City is currently gathering the records and will contact you with the actual number of copies and the cost when they are available, but no later than January 6, 2009. The City charges \$.25 per copy, and it is estimated that the number of copies responsive to your request will not exceed 25.

Thank you.

Very truly yours,

  
Julia M. Lew  
City Attorney, Lindsay

cc: Kenny Walker, City Clerk  
Mike Camarena, City Services Director

E:/julia/mkj/Lindsay/general/cfactrdec2008.doc

Received Dec 26, 2008

**construction industry force account council**

D. A. McCosker, President

Cedric Porter, Vice President

Steve Harris, Secretary

Michael Hester, Treasurer

December 22, 2008

Ken Walker, Deputy Director of Finance  
City of Lindsay  
P.O. Box 369  
Lindsay, CA 93247

**FILE COPY**

Sent via registered mail 12/22/08

Re: Lindsay Library Construction and Bidding Procedures

Dear Mr. Walker,

This is the **second request** for information that I have sent in regards to the Lindsay Library Construction Project. The first letter I sent was on December 2, 2008 and I confirmed with you on December 15, 2008 via telephone that you received the letter and forwarded it to the City Attorney for a response. I have not received any correspondence from the Attorney pertaining to my letter. Per the California Public Records Act; Government Code 6250 et. seq. an Entity must respond within 10 days of receipt of an inquiry.

I would like to know the total value of the project and all funding sources. An article in the Fresno Bee newspaper mentioned that part of the work was self performed and part was contracted out. I would like to know specifically which portions of the work were bid and what portions were performed by City crews.

Please provide copies of the following documents or the legal authority under which you claim exemption:

- 1) Copies of any and all bid advertisements relative to the library project(s)
- 2) A copy of the bid results
- 3) A listing of the work self performed including the value of materials, equipment and labor

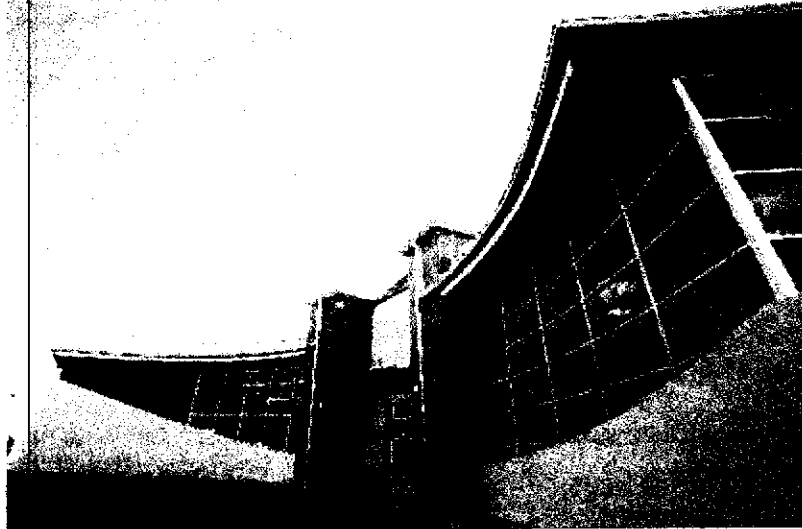
Thank you for your cooperation. I look forward to your response.

Sincerely,

Michelle Tucker, CIFAC Central Region Representative  
19815 Rough and Ready Trail  
Sonora, CA 95370

**Cathryn Hilliard**

**From:** John Sloan [jsloan@americanpavingco.com]  
**Sent:** Friday, November 21, 2008 8:47 AM  
**To:** Cathryn Hilliard; Bryan Berthiaume; DARBI4FFC@aol.com  
**Subject:** Lindsay  
**Attachments:** image001.jpg; image002.gif; image003.gif; image004.gif; image005.gif; image006.gif; image007.gif; image008.jpg; image009.gif



TOMAS OVALLE / THE FRESNO BEE

The new Lindsay library was built for \$1.15 million in part because the city's construction crew performed much of the work.

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## **New Lindsay library ready to be checked out**

**Hiring local residents helped city save money on \$1.15 million project.**

By Eddie Jimenez / The Fresno Bee

11/19/08 22:25:03

**Quick Job Search**

**careerbuilder.com**

The city of Lindsay is cutting costs on municipal construction projects -- such as the new library that opens Friday -- by using city workers instead of hiring contractors.

The \$1.15 million library is one of three projects in which the city is saving money by hiring local residents with masonry, painting, sheetrocking and other skills for a city building crew, said Kindon Meik, Lindsay's assistant city manager.

"It's allowed us to do a lot more as a smaller city than we'd otherwise be able to do," he said.

About three years ago, officials formed a city construction crew in anticipation of projects, including the McDermont Field House and Sports Center, a 172,000-square-foot indoor complex, and a wellness center.

city hires contractors to erect steel structures for its new buildings but uses city workers to finish most of the painting work, Meik said.

city officials estimated it would have cost more than \$2 million to hire contractors to build the new library -- double the cost of using city workers.

The city has two staff members who have general contractor's licenses. The city's construction crew has about 15 workers, some of whom are full-time temporary employees, Meik said.

Using the construction crew was "a way to make it happen with our limited resources," said Pamela Kimball, Lindsay's mayor pro tem.

The new 6,733-square-foot building will replace the 2,830-square-foot library that was built in 1934. Both are in downtown Lindsay.

About \$750,000 for the library's construction came from Tulare County's capital-projects fund. The rest came from city redevelopment funds and a USDA loan.

The city will own the library; Tulare County will lease it and pay for staff and materials.

The partnership is "an example of how government agencies can work together to provide better services for our residents," said Allen Ishida, a Tulare County supervisor who represents the Lindsay area.

The new library will have seven public computers with Internet access; the current library has three, and sometimes there are long waits, said Dan Short, librarian assistant.

In addition to having space to store more books, magazines, CDs, DVDs and other materials, the library will provide a meeting room, separate areas for children, young adults and adults and more storytime space for children, Short said.

Lindsay residents are excited about the new library's opening, Kimball said.

The McDermont Field House, a former fruit packinghouse that officially opened in April, is a "hybrid" project with a combination of work done by the city crew and contractors, Meik said. New attractions will open in December and after the first of the year.

Construction of a planned wellness center for the community, which will include a swimming pool, a fitness center and classrooms, is scheduled to begin early next year. The city's construction employees also will work on that project, Meik said.

"Our hope is to keep using them as long as there is sufficient work," he said.

*The reporter can be reached at [ejimenez@fresnobee.com](mailto:ejimenez@fresnobee.com) or (559) 622-2420.*



[Enlarge this image](#)

**construction industry force account council**

D. A. McCosker, President

Cedric Porter, Vice President

Steve Harris, Secretary

Michael Hester, Treasurer

December 2, 2008

Ken Walker, Deputy Director of Finance  
City of Lindsay  
P.O. Box 369  
Lindsay, CA 93247

**FILE COPY****Re: Lindsay Library Construction and Bidding Procedures**

Dear Mr. Walker,

I am a Field Representative for the Construction Industry Force Account Council. The Construction Industry Force Account Council (CIFAC) is a non-profit organization that monitors Public Entities for compliance with the California Public Contract Code to promote competitive bidding on new public works construction projects. We represent contractors, contractor organizations and various building trades.

I have attempted to contact you several times but have been unsuccessful. I came across an article in the Fresno Bee newspaper about the construction of the new Lindsay library and would like to know some additional information.

As an entity signatory to the California Uniform Construction Cost Accounting Act (CUCCAA), all public works projects that have a total value that exceeds \$30,000 must be formally or informally bid according to CUCCAA procedures, pursuant to section 22032 of the California Public Contract Code.

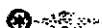
I would like to know the total value of the project and all funding sources. The newspaper article mentioned that part of the work was self performed and part was contracted out. I would like to know specifically which portions of the work were bid and what portions were performed by City crews.

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- 2) A copy of the bid results
- 3) A listing of the work self performed including the value of materials, equipment and labor

Cathryn Hilliard, Executive Director

837 Arnold Drive, Suite 200, Martinez, CA 94553 • phone 800-755-3354 • fax 925-957-1800 • email cifac@sbcglobal.net • web www.cifac.org





I would like to try to resolve this matter at a local level rather than filing a complaint with the California Uniform Construction Cost Accounting Commission.

Thank you for your prompt reply to this letter. We are requesting these documents per the California Public Records Act; Government Code 6250 et.seq. and thus will expect a reply by December 12, 2008. Please contact me if you have any questions, at (209) 532-2942.

Sincerely,



Michelle Tucker, CIFAC Central Region Representative  
19815 Rough and Ready Trail  
Sonora, CA 95370

C/O STATE CONTROLLERS OFFICE  
3301 C ST  
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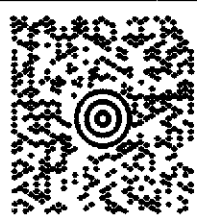
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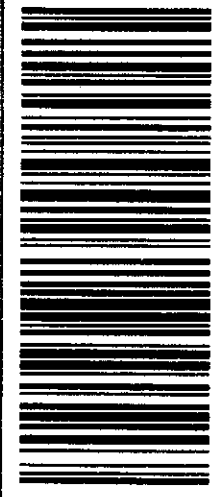
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